

FISCAL NOTE

Bill #: HB0607

Title: Public campaign financing

Primary

Sponsor: Tom Facey

Status: As Introduced

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
Expenditures:		
State Special Revenue	\$611,067	\$1,216,627
Revenue:		
General Fund	(\$157,000)	(\$157,000)
State Special Revenue	\$194,800	\$157,000
Net Impact on General Fund Balance:	(\$157,000)	(\$157,000)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts
X		Dedicated Revenue Form Attached	X		Family Impact Form Attached

Fiscal Analysis

ASSUMPTIONS:

Commissioner of Political Practices

1. Passage of HB 607 would require the Commissioner of Political Practices to adopt rules implementing section 2 through 27. The total estimated cost for legal expenses in FY 2003 is \$9,660. Contracted services expenses to have proposed rules formatted per ARM regulations. It is estimated that the contract would be 80 hours at a cost of \$10.00 per hour, resulting in a cost of \$800 in FY 2002.
2. HB 607 would require the need for continuing legal services to enforce sections 2 through 27. The total estimated yearly fiscal cost for these legal services is \$2,800. It is important to emphasize that this figure does not include estimates of other anticipated legal expenses, such as defending judicial review actions challenging the commissioner's decisions under section 11(5), seeking injunctions in district court under section 22(5), and investigating complaints pursuant to section 22(4).
3. There were 61 Senate and 259 House candidates in the 2000 election cycle. Assuming there is the same number of candidates in the 2002 elections and assuming that 30 percent of the candidates would

participate in the public money election campaign fund, 20 Senate and 86 House candidates would participate in 2002.

4. HB 607 would require that candidates who wish to participate in the public money election campaign fund meet qualifying conditions. If 30 percent of the Senate and House candidates in 2002 would participate, over 7,560 receipts of qualifying contributions would have to be submitted to the commissioner for approval along with a declaration indicating each candidate has complied with and will comply with all requirements of sections 2 through 27.
5. The commissioner shall issue to a participating candidate a line of credit evidenced by a public money debit card. Expenditures charged to debit cards would be paid from the public money fund. Clerical and accounting support for administration of the fund and the debit card system would require 1.00 FTE administrative support position (grade 11) at a cost of \$27,367 per fiscal year. An additional workstation providing a desk, chair, and computer would be required at an estimated cost of \$2,900. Retrofitting the electrical systems to provide for an additional computer would be necessary as existing wiring systems will not support additional computer equipment. The cost of this additional wiring is undeterminable.
6. HB 607 would create a public money election campaign fund. The fund would consist of the following revenues: (1) money transferred from the general fund (\$100,000 in FY 2002 and FY 2003), (2) qualifying contributions paid by candidates seeking certification as participating candidates and any qualifying contributions collected by a candidate in excess of the number necessary for certification as a participating candidate (\$37,800 in FY 2002 if 30 percent of Senate and House candidates participate), (3) fines levied by the commissioner against candidates for violations of section 2 through 27 (the amount of revenue from fines is undeterminable), (4) money resulting from the voluntary tax check offs provided for in HB 607, (5) interest or other income generated by money in the fund, (6) loans received from the Board of Investments pursuant to section 27, and (6) other sources of revenue determined necessary by the legislature.
7. The commissioner would pay to participating candidates set amounts from the public money election campaign fund. If 30 percent of the Senate and House candidates in 2002 participate, the commissioner would pay \$580,000 in FY 2002 and \$1,160,000 in FY 2003 from the fund to participating candidates.
8. HB 607 would require the commissioner to pay additional funds to participating candidates which matches independent expenditures or excess campaign contributions of nonparticipating candidates up to 200 percent of the total amount of public money funding paid by the commissioner to a participating candidate in that election. The amount of this additional funding that would be paid from the fund is undeterminable.
9. The bill also requires the commissioner to pay, upon determination that an issue advertisement could reasonably be interpreted as having the effect of promoting the defeat of a participating candidate or the election of that participating candidate's opponent, to that participating candidate additional public money funding equal in amount to the cost of the issue advertisement. The amount of this additional funding that would be paid from the fund is undeterminable.
10. Passage of HB 607 would allow the commissioner to conduct random audits to ensure compliance with sections 2 through 27. Inasmuch as public monies would be provided to candidates, verification that expenditures by those candidates meet statutory provisions would be valuable to ensure public trust. Assuming the commissioner would audit 10 percent of the participating candidates' expenditures, 12 audits would be conducted. Assuming that each audit would require 5 days, 12 audits would require a total of 60 days. The commissioner would require contracted services to perform random audits and investigations. Estimated hours would be 480 at a cost of \$35 per hour resulting in a cost of \$16,800 in FY 2003.
11. The commissioner would be required to accept and investigate anonymous complaints. The legal fees associated with this requirement are undeterminable.

12. Section 18 of the bill creates a statutory appropriation to the commissioner to be used for administration and payments to candidates.
13. HB 607 would allow the commissioner to borrow money from the Board of Investments for the public money election campaign fund. If the money in the fund is insufficient to repay the loans within the period of time determined by the Board of Investments, the loans must be repaid from the general fund.

Department of Revenue

14. This bill would provide for a voluntary check-off against individual income and corporate license taxes for contributions to a public money election campaign fund. The contribution could be made for any amount up to \$50. The contribution would act as a credit against the taxpayer's tax liability, but could not exceed tax liability (a nonrefundable credit). This proposal will reduce revenue to the state general fund.
15. The amount by which this proposal will reduce revenue to the general fund will depend on the number of taxpayers making the voluntary check-off, and the average amount of the check-off. State law provided for a similar contribution offset against individual income taxes that was discontinued in tax year 1993. That provision allowed taxpayers and their spouses to contribute \$1 each to the campaign fund. The following table shows the total amount of contributions under the old public campaign contribution:

Tax Year	Public Campaign Fund Contributions
1987	\$2,403
1988	\$1,495
1989	\$1,466
1990	\$2,080
1991	\$1,621
1992	\$1,707
1993	N/A
Average	\$1,795

Over the period 1987 – 1992, the average contribution was \$1,795. Because the contribution allowed was \$1, this provides a count of the number of taxpayers willing to make a contribution to the public campaign fund.

16. Under this proposal, the maximum check-off contribution allowed is \$50. The total offset against individual income tax will depend on the number of check-offs and the average contribution. Because the credit amount allowed is \$50, rather than \$1, and because population has grown since 1993, it is likely that more people will opt to use the check-off than previously. The following table shows the amount of total contribution to the public money election campaign fund under this bill, under alternative assumptions of number of contributors, and average contribution.

Total Amount of Contribution to Public Money Election Campaign Fund at Various Levels of Contributors and Average Contribution							
Number of Contributors	Average Contribution						
	\$1	\$5	\$10	\$20	\$30	\$40	\$50
1,800	\$1,800	\$9,000	\$18,000	\$36,000	\$54,000	\$72,000	\$90,000
2,000	\$2,000	\$10,000	\$20,000	\$40,000	\$60,000	\$80,000	\$100,000
2,200	\$2,200	\$11,000	\$22,000	\$44,000	\$66,000	\$88,000	\$110,000

As shown in the previous table, the total amount of contributions is likely to be somewhere between \$1,800 and \$110,000. For purposes of this fiscal note, estimated contributions of \$60,000 is used.

17. Contributions to the account via check-offs from corporation license tax returns are assumed to be minimal, as these entities are likely to provide donations through other means.

18. Under the bill, the check-off for the public money election campaign fund terminates on January 1, of the first tax year following the 2 immediately preceding tax years in which the voluntary check-offs raise less than \$20,000 in each of those 2 tax years.
19. This proposal provides that money received through the individual income tax check-off must be deposited in the public money election campaign fund after the department has deducted the amount necessary for the department to administer this section as provided in 15-30-153, MCA. 15-30-153, MCA provides that the department may deduct costs necessary to create the special revenue account and to place the check-off on the income tax return, and the costs necessary to administer the account in each succeeding year. These latter charges may not exceed \$3,000 in any tax year. Since these charges must be deposited in the state general fund, there would be an offset of up to \$3,000 each year against the total dollar amount of contributions made.

Department of Commerce

20. The Commissioner of Political Practices may borrow from the Montana Board of Investments. Any loan proceeds would be deposited in the public money campaign fund.
21. The Board of Investments would lend Coal Tax Trust Funds (trust) to the Commissioner's Office.
22. Interest earnings on the trust are deposited in the state general fund. Funds would be loaned at the same rate the trust earns in the Trust Funds Bond Pool, so there would be no loss of interest earnings to the state general fund.
23. The principal amount of any loan is unknown; therefore, the amount and schedule of funds available for loan repayment is unknown.

FISCAL IMPACT:

	<u>FY2002</u> <u>Difference</u>	<u>FY2003</u> <u>Difference</u>
Commissioner of Political Practices		
FTE	1.00	1.00

Expenditures:

Personal Services	27,367	27,367
Operating Expenses	3,700	29,260
Payments from fund to candidates	<u>580,000</u>	<u>1,160,000</u>
TOTAL	\$611,067	\$1,216,627

Funding:

State Special Revenue (02)	\$611,067	\$1,216,627
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Revenues:

General Fund (01)	(\$100,000)	(\$100,000)
State Special Revenue (02)	\$137,800	\$100,000

Department of Revenue**Revenues:**

General Fund	(\$57,000)	(\$57,000)
State Special Revenue (02)	\$57,000	\$57,000

Net Impact to Fund Balance (Revenue minus Expenditure):

General Fund (01)	(\$157,000)	(\$157,000)
State Special Revenue (02)	(\$416,267)*	(\$1,059,627)*

* The state special revenue account would have to be offset with loans from the Board of Investments to cover these expenses as referenced in assumption #13.

LONG-RANGE IMPACTS:

Since there will be no significant statewide elections in 2002, there will be a significant increase in the expenditures from the public money election campaign fund in FY 2004 and FY 2005. Assuming 30% of the candidates participate and there are as many candidates in 2004 as there were in 2000, expenditures from the fund to participating candidates are anticipated to be in excess of \$1,690,000 in FY 2004 and \$4,510,000 in FY 2005.

DEDICATION OF REVENUE:

- a) Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)

No. If a candidate wants to participate in the fund, the candidate must raise the qualifying number of contributions. All qualifying contributions are deposited into the fund.

- b) What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?

Unknown.

- c) Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? ____ Yes __X__ No (if no, explain)

Estimated ongoing revenue is \$151,800 per biennium. Estimated expenses are \$1,827,694 per biennium.

- d) Does the need for this state special revenue provision still exist? __X__ Yes ____ No (Explain)

HB 607 would require the existence of the fund. If HB 607 is not successful, there is no need for the fund.

- e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)

Yes. The legislature would have no control over the number of participating candidates nor would they have any control over the expenditures of the non-participating candidates which could significantly increase the total amount of money distributed from the fund.

- f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)

Yes, only upon passage of HB 607.

- g) How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)

The program/activity could be adequately accounted for if it were funded with general fund.